IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

WP(C).No. 18557 of 2007(H)

PETITIONER:

V.M.SANTHA,
FORMERLY CRAFT TEACHER, MAVILAYI U.P. SCHOOL,
PEEDIKAKANDIYIL HOUSE, MAKRERI, KANNUR DISTRICT.

BY ADV. SMT.P.V.ASHA

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. DISTRICT EDUCATIONAL OFFICER, KANNUR.

3. ASSISTANT EDUCATIONAL OFFICER,
KANNUR SOUTH, KANNUR.

BY GOVERNMENT PLEADER, SRI.T.T.MUHAMOOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.18557/2007(H)

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE ORDER DATED 14-7-1977 OF THE MANAGER.

EXT. P2: COPY OF THE LETTER DATED 4-12-1987 OF HEADMISTRESS.

EXT. P2A: COPY OF THE KGTE CERTIFICATE ISSUED TO HER ON 19-2-76.

EXT. P3: COPY OF G.O. (RT) NO.275/2001/G.EDN DATED 19-1-2001.

EXT. P4: COPY OF THE ORDER NO.E.503/01 DATED 4-5-02 OF 3RD RESPONDENT.

EXT. P5: COPY OF REPRESENTATION DATED 3-7-02 OF PETITIONER.

EXT. P6: COPY OF ORDER DATED 29-10-02 OF 2ND RESPONDENT.

EXT. P7: COPY OF LETTER NO.50485/K2/01/G.EDN. DATED 22-1-03.

EXT. P8: COPY OF LETTER NO.2254/K2/06/G.EDN DATED 18-4-06/25-5-06.

/TRUE COPY/

P.A. TO JUDGE

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S.SIRI JAGAN, J.

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W.P.(C) No. 18557 of 2007(H)

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Dated this the 19th day of December, 2007

JUDGMENT

By Ext. P1 dated 14.7.1977, petitioner was appointed as a Craft Teacher in the Mavilayi U.P. School, with effect from 14.7.1977, in a vacancy caused by the death of the incumbent of that post. Later on, by Ext.P2 communication from the Headmistress of the School, petitioner was relieved from duties on 4.12.1987, as per direction of the Assistant Educational Officer. The petitioner challenged the same before the Government which resulted in Ext.P3 order, wherein the Government passed the following order.

> "In the above circumstances, Government are pleased to restore the post of Craft teacher in Mavilayi U.P. School from 14-7-1977 to 25-7-1987 for the limited purpose of accommodating Smt.V.M.Santha as Craft teacher in the above restored Post and paying her salary for the period of her work in the school if it is otherwise in order."

2. Later on, the Assistant Educational Officer considered approval of the appointment of the petitioner and held that the petitioner is not qualified to hold the post on the ground that her

qualification is only K.G.T.E. (Lower), whereas the qualification prescribed is K.G.T.E. (Higher). Petitioner again filed representation and the District Educational Officer by Ext. P6 order held that the petitioner is not qualified since pass in S.S.L.C. is a necessary qualification. By Ext.P7, the Government again rejected the petitioner's claim on the ground that she did not have K.G.T.E. (Higher) qualification. This was again upheld by Ext.P8. Petitioner challenges Exts. P4, P6, P7 and P8 and a declaration that the appointment of the petitioner as craft teacher is liable to be approved with a further prayer for direction to pay salary for the period she worked.

3. The contention of the petitioner is that at the time of her appointment, the qualifications prescribed for appointment of craft teacher in U.P. Schools were only "a pass in Form III or standard VIII and a certificate in the particular subject issued by a recognised institution". According to the petitioner, she had passed IXth standard and by Ext.P2 she had obtained K.G.T.E. (Lower) qualification in tailoring which according to the petitioner are sufficient qualifications for the post in which she worked. She

further submits that S.S.L.C. and K.G.T.E. were introduced as qualifications for the post of craft teacher only when the same was included in Chapter XXXI of KER by G.O.(P) No.182/84/G.Edn. dated 30.8.84 with effected from 14.9.84. The petitioner therefore, submits that the impugned orders are liable to be set aside and the respondents are liable to be directed to pay to the petitioner the salary for the period from 14.7.1977 to 27.7.1987.

2. The Government Pleader supports the impugned orders with the help of the counter affidavit filed on behalf of the 3rd respondent

3. It is not disputed before me at the relevant time, the qualification prescribed for the post of craft teacher in U.P. Schools were a pass in Form III or pass in Standard VIII and a certificate in particular subject from a recognised institution. The contention of the Government Pleader is that as per Ext.R3(a) clarification issued by the Director of Public Instruction K.G.T.E. (Higher) is the necessary qualification for the post. I am not able to countenance the contention of the learned

Government Pleader first of all Ext. R3(a) does not refer to qualifications for the post of craft teacher at all. It only says that "Only person possessing the following Kerala Government Technical Examination Certificates are entitled the award of Group Certificate or Group Diploma as shown below". Ext.P2 (A) shows that petitioner in fact obtained a certificate in K.G.T.E. (Lower), which qualification certainly answers "the certificate in the particular subject issued by a recognised institution" which is the qualification prescribed for the post of craft teacher in U.P. Schools. Petitioner has also passed standard IX. Together, the same would constitute the required qualifications for the post of craft teacher at the relevant time when the petitioner was appointed to that post. In that view the impugned orders are not sustainable. Accordingly, Exts. P4, P6, P7 and P8 orders are quashed. It is declared that the petitioner's appointment as craft teacher by Ext.P1 order was perfectly valid and proper and liable to be approved as such. Consequently petitioner would be entitled to salary in that post for the period from 14.7.1977 to 25.7.1987 as held in Ext.P3 Government Order. Orders in this

regard shall be passed and monetary benefits arising therefrom shall be disbursed to the petitioner within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is allowed as above.

S.SIRI JAGAN,
JUDGE

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